

MINUTES

UTAH RESPIRATORY CARE BOARD MEETING

September 4, 2007

Room 475 – 4th Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111

CONVENED: 9:04 A.M.

ADJOURNED: 11:04 A.M.

Bureau Manager:
Board Secretary:

Noel Taxin
Karen McCall

Board Members Present:

Anita Austin, Board Chairperson
Georgine Bills
Jack Fried
Beverly J. Lambdin
Jennifer G. Brinton, MD

DOPL Staff Present:

David Stanley, Division Director

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Swearing in of Jennifer G. Brinton, MD

Ms. Taxin conducted the swearing in of Dr. Brinton as a Board member. **The Board welcomed Dr. Brinton.**

MINUTES:

The minutes from the July 18, 2007 meeting were read.

Ms. Lambdin made a motion to approve the minutes with minor revisions. Mr. Fried seconded the motion.
The Board vote was unanimous.

APPOINTMENTS:

9:45 A.M.

M. Cory Somerville, Probationary Interview

Mr. Somerville met for his probationary interview.

Ms. Austin requested Ms. Taxin to conduct the interview.

Board members and Division staff were introduced.

Ms. Taxin requested Mr. Somerville to briefly update the Board regarding the reason he is on probation and where he is currently regarding working on his probation requirements.

Mr. Somerville responded that he was terminated from the University due to missing work. He stated that he had injured his back and was taking pain killers for the pain. He stated that the Salt Lake Regional Center incident was only an allegation.

Ms. Taxin confirmed that the Salt Lake Regional Center incident was the allegation that started the investigation. She stated that Mr. Somerville did not admit to the Salt Lake Regional Center incident.

Mr. Somerville distributed a handout to the Board regarding his drug abuse recovery accomplishments, references and a list of places he has applied for employment as a Respiratory Care Practitioner.

Mr. Somerville stated that he has been working with Autistic adults as he has been unable to obtain employment in the Respiratory Care field. He asked if Ms. Taxin could write a letter for him to present to potential employers explaining that he is on probation but is hireable.

Ms. Taxin responded that she would be able to write a letter stating Mr. Somerville is on probation but could be hired. She stated that the employer would be required to read the Stipulation and Order and provide Mr. Somerville could work under supervision.

Mr. Somerville explained that he has been drug free for a period of time but has not fully followed the Stipulation and Order. He stated that he has been working to get his career back in order. He stated that he has not attended the Professionals in Recovery (PIR) meetings regularly as required but he has been attending some AA meetings. Mr. Somerville stated that he gets more out of the AA meetings than the PIR meetings as they are more formal and the AA

meetings are more convenient for his work schedule. He stated that he has female friend that attends the PIR meetings and they talk regularly on the phone regarding the meetings.

Mr. Fried asked Mr. Somerville if there is a reason he cannot get the paperwork completed and start the Division drug testing now. He stated that a track record of negative tests may enhance Mr. Somerville's hire ability. Mr. Fried also asked Mr. Somerville if he has tried a pain management clinic if the medications he has been taking for his back pain have not worked.

Mr. Somerville responded that his finances prohibit him from being able to drug test through the Division. He stated that he did try the pain management clinics and both Doctor's he saw did nothing for his back pain. Mr. Somerville stated that he now has a Doctor who is against giving out pain pills.

Mr. Fried commented that if Mr. Somerville is in such pain that it cannot be eliminated without drugs then he might not be able to work as a Respiratory Care Practitioner. He stated that Mr. Somerville's word on being drug free is up for interpretation but a testing record would speak for itself.

Mr. Somerville asked if he is required to go through the Division agency for drug testing.

Ms. Taxin responded that in the past there have been Boards that have recommended different testing accommodations if the probationer works in a facility that provides drug testing. She stated that the Division agency tests for everything and the tests are so sensitive that they will pick up everything for a 7 day period. She stated that the Division testing is random so Mr. Somerville could be tested 3 times in one month or once every other month. She asked if his employer has random drug testing.

Mr. Somerville responded that he does not know but believes they do have random tests. He stated that he

has never been contacted for a test.

Mr. Fried asked if the drug testing could be a combination between the Division agency and Mr. Somerville's employment.

Ms. Taxin responded that it could not be a combination.

Mr. Somerville stated that he has been using the bus system so it is difficult for him to get to specific locations for appointments although he just got his license back. He stated that he will have to continue using the bus system as he cannot afford the insurance for his car. Mr. Somerville stated that losing his license was his own fault.

Ms. Bills asked if his excuse for not getting signed up for the drug testing was due to having to use the public transportation.

Mr. Somerville responded that Ms. Bill is correct.

Ms. Taxin explained that when Mr. Somerville is on the drug testing schedule he must call in every day and if he is being tested he must be at the location for the test within a specified time frame.

Mr. Somerville asked if it is usual to start the drug testing before he is employed as a Respiratory Care Practitioner and before his probation starts.

Ms. Taxin responded that when Mr. Somerville signed the Stipulation and Order his probation started. She explained that he met with the drug testing people to get set up on the schedule when he signed the Stipulation and Order. She stated that Mr. Somerville's probation requires him to work under a supervisor with monthly reports being submitted, to be on random drug testing and to attend the PIR group twice a month.

Ms. Taxin explained that the Board may make a recommendation to amend Mr. Somerville's Stipulation and Order regarding the requirement of attending PIR meetings twice a month to the

requirement of attending PIR meetings or AA meetings twice a month.

Ms. Taxin stated that Mr. Somerville may ask his employer if they could do random drug tests and then get back to her regarding their response. She stated that the Board could consider amending the Order to have him randomly tested through his place of employment and through the Division testing agency periodically.

Ms. Taxin stated that Mr. Somerville has not been working as a Respiratory Care Practitioner. She stated that he cannot continue to not address the requirements of the probation. Ms. Taxin suggested Mr. Somerville come to his next appointment with a decision regarding his probation.

Mr. Somerville responded that he wants to work as a Respiratory Care Practitioner but with the probation he is unable to find employment. He stated that he has also thought about going back to school so he can receive government assistance.

Ms. Taxin stated that Mr. Somerville will have to address the requirements of his probation. She stated that when he surrendered his license he was put on a Federal list and if he surrenders again or is revoked for non-compliance with the probation requirements he will be put back on that Federal list which will apply to all employment not just Respiratory Care.

Ms. Austin stated that Mr. Somerville has the choice of working on his probationary requirements, to surrender his license or have it revoked. She stated that Mr. Somerville will need to decide and notify the Board/Division of his decision. She stated that it is difficult to find employment but he could fulfill the other requirements while he is looking. She stated that a letter from the Division might assist him. Ms. Austin stated that the probation is like school, Mr. Somerville has to tough it out.

Ms. Bills stated that she recently received a letter from Nevada that Las Vegas has a need for Respiratory Care Practitioners. She stated that Mr. Somerville might try for employment there but he would still need a license.

Ms. Taxin suggested Mr. Somerville get set up on the drug testing. She stated that if he is to test and does not have the money he could contact Debbie and Susan and tell them he does not have the money that day. She explained that he would need to have at least a year of negative tests before the Board could consider terminating that requirement.

Ms. Bills made a motion to amend Mr. Somerville's Stipulation and Order to allow him to attend PIR or AA meetings twice a month.

Ms. Lambdin seconded the motion.

The Board vote was unanimous.

Ms. Taxin asked Mr. Somerville to let her know regarding drug testing through his current employment. She then gave Mr. Somerville the phone numbers for Dr. Stephen Sheppard and Dr. Kelly Lundberg to contact regarding drug testing if his employment is unable to do the testing. She agreed to write a letter for Mr. Somerville regarding the status of his license.

Ms. Taxin stated that Mr. Somerville should write a letter to the Board/Division stating that he not working as a Respiratory Care Practitioner at this time and then submit another letter when he is employed in the field.

Ms. Austin stated that she believes it would be impressive to a potential employer if Mr. Somerville has negative drug tests for 6 months.

Ms. Taxin stated that Mr. Somerville will be notified regarding the date of his next appointment as the Board has not yet determined the date of the next meeting.

DISCUSSION ITEMS:

Update on the letters that were sent out to CEO's

Ms. Taxin stated that about 200 letters were sent out to Administrator's/CEO's clarifying that license Respiratory Care Practitioners must be doing Respiratory Care duties and students cannot. She stated that 5 letters were returned and she has had no phone calls regarding the content of the letter. Ms. Taxin stated that she received a phone call this morning regarding concerns about one facility and will send the information to investigations to follow up. She stated that the caller informed her that the facility had not changed their procedures since receiving the letter. Ms. Taxin stated that she noticed that letters were not sent to the University Hospital so she went back and sent those letters.

Ms. Bills asked if there is something in the umbrella Law that allows for students to work as an intern.

Ms. Taxin referred the Board to the umbrella Law, 58-1-70(1)(b) regarding the student exemption.

Mr. Fried stated that students work directly under a licensed person at all times.

Ms. Taxin stated that the education internship is a supervised experience and not just a student working.

The Board thanked Ms. Taxin for sending the letter. They stated that now the facilities have been notified and there is no excuse for non-compliance.

Finalize recommendation regarding Global Definitions of Levels of Supervision

Ms. Taxin requested the Board to review the Global Definitions of Levels of Supervision as she will need a recommendation today regarding if the Board wants to keep their current definitions as they are or adapt them.

Mr. Stanley stated that the current definition will not meet the Committee's requirements.

Ms. Austin responded that the supervision in R156-57-102(2) appears to be indirect supervision as

defined in number 2 of the Global definitions.

Ms. Taxin asked the Board if they would like to make a motion to amend their Rules to read as the Indirect Supervision.

Mr. Stanley suggested the Board make a motion to adopt the Global definition and then come back and make the changes to their Rules. He stated that by adopting the Global definition he can report to the Committee that the Respiratory Care Board will be making changes as needed.

Ms. Taxin stated that there is a correction the Board requested in the Rules and the indirect supervision language could be included when the correction is made.

Ms. Bills made a motion to accept the Global definitions.

Ms. Lambdin seconded the motion.

The Board vote was unanimous.

Ms. Taxin stated that she will have a draft ready for the Board to review at the November meeting.

Review the revisions to the Application

Ms. Taxin notified the Board that she had the requirement of submitting a copy of the High School Diploma or GED taken out of the application as the Board requested. Ms. Taxin stated that a copy of the new application is now available.

The Board thanked Ms. Taxin for making the change.

Re-Discuss the revisions to the Rules

Ms. Taxin stated that the revisions to the Rules have already been discussed.

Education, NBRC Certification (See Application Examples)

Ms. Austin explained that while Ms. Taxin was out of the office a staff member contacted her regarding 3 applicants that have taken and passed the NBRC examination and have the certification but do not have education from COARC accredited programs. She stated that 1 is from a Canadian

school and 2 are from Armed Forces schools. Ms. Austin stated that when she received the phone call she reviewed the Rules which say “education approved by the Board, accredited by COARC as evidenced by NBRC certification. She stated that she believes the education should meet the requirements if the applicant has the NBRC certification.

Ms. Taxin stated that all three have the NBRC certification. She explained that her staff verifies the education and these 3 schools were not listed. Ms. Taxin asked if having the NBRC certification is acceptable that the education is equivalent to the COARC accredited programs.

Ms. Bills responded that she does not believe having the NBRC certification justifies issuing the Utah license. She stated that the Board discussed striking the language “as evidenced by NBRC certification”. Ms. Bills stated that military programs are different from the COARC accredited programs.

Ms. Taxin stated that the licenses were issued to all 3 applicants based on NBRC saying that they review the education prior to allowing an applicant to take the examination and again if the applicant wants the higher examination.

Ms. Bills responded that issuing the licenses is a problem. She stated that years ago there was a provision in the Law and Rules for anyone working in the field to pay their money and take the examination for licensing, sort of a grandfathering for those who did not meet education requirements. She stated that those who were grandfathered in did not receive an NBRC certificate but do have Utah licenses.

Ms. Austin stated that all foreign education and U.S. education that is not accredited by COARC should be reviewed by the Board to determine equivalency.

Ms. Taxin responded that there are organizations that

review foreign education to determine equivalency and the education should go through those organizations.

Ms. Bills concluded that she will contact NBRC and report back to the Board regarding the education issue.

Review Calendars to schedule a December 2007 meeting

The Board reviewed their calendars and scheduled the next meeting for November 13, 2007, from 2:00 pm to 4:00 pm.

NEXT MEETING SCHEDULED FOR:

November 13, 2007 from 2:00 pm to 4:00 pm

ADJOURN:

The time is 11:04 am and the meeting is adjourned.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

March 25, 2008
Date Approved

(ss) Anita Austin
Chairperson, Utah Respiratory Care Licensing Board

October 1, 2007
Date Approved

(ss) Noel Taxin
Bureau Manager, Division of Occupational & Professional Licensing